

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
TEXARKANA DIVISION**

ANTHONY SCOTT WHITE,

Plaintiff,

v.

MICHAEL LUSK, ET AL.,

Defendants.

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CIVIL ACTION NO. 5:24-CV-00018-RWS-  
JBB

**ORDER**

Plaintiff Anthony White, an inmate now confined in the Texas Department of Criminal Justice—Correctional Institutions Division proceeding *pro se*, filed this civil rights lawsuit under 42 U.S.C. § 1983 complaining of alleged violations of his constitutional rights by officials in Bowie County, Texas. Docket No. 1. The named Defendants are retained defense counsel Michael Lusk, public defender Bart Craytor, assistant district attorneys Kelly Crisp and Lauren Richards, and an unnamed arresting officer. *See id.* The lawsuit was referred to United States Magistrate Judge J. Boone Baxter.

On July 24, 2024, the Magistrate Judge issued a Report and Recommendation, recommending the above-captioned lawsuit be dismissed with prejudice for failure to state a claim upon which relief may be granted because the defendant defense attorneys are not state actors, the prosecutors are protected by absolute immunity, and the claims against the arresting officer are barred by *Heck v. Humphrey*, 512 U.S. 477 (1994).<sup>1</sup> Docket No. 11. A copy of this Report

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<sup>1</sup> The Magistrate Judge further noted the lawsuit may be dismissed for failure to prosecute or to obey an order of the Court under Federal Rule of Civil Procedure 41(b) based on Plaintiff's failure to pay the statutory filing fee of \$405.00 or submit a certified in forma pauperis data sheet or inmate account summary sheet, as required by 28 U.S.C. § 1915(b), as ordered on April 10, 2024. *See* Docket Nos. 6, 8 (Plaintiff's acknowledgment of receipt of the April 19 Order).

was sent to Petitioner at his last known address, but no objections have been received. The Fifth Circuit has explained that where a letter is properly placed in the United States mail, a presumption exists that the letter reached its destination in the usual time and was actually received by the person to whom it was addressed. *Faciane v. Sun Life Assurance Company of Canada*, 931 F.3d 412, 420–21 (5th Cir. 2019); *see also id.* at 421 n.9.

Because no objections have been received, Petitioner is barred from *de novo* review by the District Judge of the Magistrate Judge’s proposed findings, conclusions and recommendations and, except upon grounds of plain error, from appellate review of the unobjected-to factual findings and legal conclusions accepted and adopted by the District Court. *See Duarte v. City of Lewisville, Texas*, 858 F.3d 348, 352 (5th Cir. 2017); *Arriaga v. Laxminarayan*, Case No. 4:21-CV-00203- RAS, 2021 WL 3287683, at \*1 (E.D. Tex. July 31, 2021).


The Court has reviewed the pleadings in this cause and the Report and Recommendation of the Magistrate Judge. Upon such review, the Court has determined that the Report of the Magistrate Judge is correct. *See United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir.), *cert. denied*, 492 U.S. 918 (1989) (where no objections to a Magistrate Judge’s Report are filed, the standard of review is “clearly erroneous, abuse of discretion and contrary to law”). Accordingly, it is

**ORDERED** that the Report and Recommendation of the Magistrate Judge (Docket No. 11) is **ADOPTED** as the opinion of the District Court. It is further

**ORDERED** that the above-styled civil action is **DISMISSED WITH PREJUDICE** as to the Defendants Michael Lusk, Bart Craytor, Kelly Crisp and Lauren Richards, and **WITH PREJUDICE** against the arresting officer until such time as Plaintiff can show that his conviction has been overturned, expunged, or otherwise set aside. The dismissal of this lawsuit

shall not prevent Plaintiff from challenging his conviction through any lawful means, including but not limited to state or federal habeas corpus proceedings or executive clemency.

**So ORDERED and SIGNED this 4th day of September, 2024.**

  
ROBERT W. SCHROEDER III  
UNITED STATES DISTRICT JUDGE